



May 25, 2000

Ms. Renee Mauzy
Department of Information Resources
P.O. Box 13564
Austin, Texas 78711-3564

OR2000-2068

Dear Ms. Mauzy:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 135876.

The Department of Information Resources (the “department”) received two requests for 1) the contracts between the department and Oracle and Microsoft respectively, and 2) the list pricing Oracle provided the department. You assert no exception to the release of the information. However, you inform us that the requested information may involve the proprietary or property interests of Oracle and Microsoft. Section 552.305(d) requires the department to notify the third party of the request for an attorney general decision. You have provided documentation demonstrating that you have notified both companies of the request. *See* Gov’t Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining that statutory predecessor to Gov’t Code § 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in Public Information Act in certain circumstances). In order for this office to determine that information may be withheld from disclosure under section 552.110(a), a party must establish a *prima facie* case that the information constitutes a trade secret. Open Records Decision No. 552 at 3 (1990). Furthermore, to prevent disclosure of commercial or financial information under section 552.110(b), a party must show by specific factual or evidentiary material, not conclusory or generalized allegations, that it actually faces competition and that substantial competitive injury would likely result from disclosure. *Id.* at 5.

As of this date neither company has submitted to this office reasons explaining why the requested information should not be released. Therefore, we have no basis to conclude that the responsive information is excepted from disclosure. *See* Gov't Code § 552.110(b). Thus, the department must release the requested information to the respective requestors.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

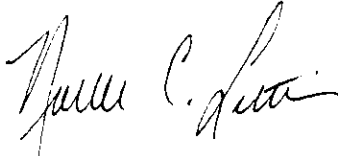
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Noelle C. Letteri
Assistant Attorney General
Open Records Division

ncl/nc

Ref: ID# 135876

Encl. Submitted documents

cc: Mr. Ryan J. Taylor
Novell, Inc.
555 North Technology Way
Mailstop Q313
Orem, Utah 84097
(w/o enclosures)

Mr. Ditka Reiner
Reiner Associates
2826 Las Gallinas Avenue
San Rafael, California 94903
(w/o enclosures)

Jennifer Harris
Attorney, Microsoft Corp.
Law and Corporate Affairs
One Microsoft Way
Redmond, WA 98052
(w/o enclosures)

David Wylie
Microsoft Consulting Service
15710 JFK Blvd., Suite 800
Houston, Texas 77032
(w/o enclosures)

Alfredo Nieto, Jr.,
Senior Contracts Manager
Oracle Corporation
1910 Oracle Way, 6038
Reston, VA 20190
(w/o enclosures)